

TAXATION*

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ARTICLE I. IN GENERAL

Sec. 23-1. Assessment and collection by county.

In pursuance of section 51500 et seq. of the Government Code, the city does hereby elect that the duties of assessing property and collecting taxes provided by law to be performed by the assessor and the tax collector of the city shall be performed by the county assessor, and the county tax collector; and such taxes shall be so collected by the county assessor and the county tax collector at the same time and in the manner county taxes are collected, until the city shall by ordinance elect not to have such duties performed by such assessor and tax collector for any longer time. (Code 1961, § 25.1)

23-2—23-12. Reserved.

ARTICLE II. SALES AND USE TAX†

Sec. 23-13. Short title.

This article shall be known as the Uniform Local Sales and Use Tax Regulations. (Code 1961, § 25.2; Ord. No. 515, § 1, 10-9-73)

Sec. 23-14. Purpose.

The city council hereby declares that this article is adopted to achieve the following, among other, purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- (a) To adopt sales and use tax regulations which comply with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;

- (b) To adopt sales and use tax regulations which incorporate provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;
- (c) To adopt sales and use tax regulations which impose a tax and provide a measure therefor that can be administered and collected by the state board of equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from the existing statutory and administrative procedures followed by the state board of equalization in administering and collecting the California State Sales and Use Taxes;
- (d) To adopt sales and use tax regulations which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting city sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this article. (Code 1961, § 25.2.3; Ord. No. 515, § 1, 10-9-73)

Sec. 23-15. Operative date.

This article shall be operative on January 1, 1974. (Code 1961, § 25.2.2; Ord. No. 515, § 1, 10-9-73)

Sec. 23-16. Rate.

The rate of sales tax and use tax imposed by this article shall be 95/100 of one per cent. (Code 1961, § 25.2.1; Ord. No. 515, § 1, 10-9-73)

†State law reference—Authority to levy sales and use tax, Rev. & T. Code, § 7201; reference to county includes city, Rev. & T. Code, § 15.

*Cross references—Licenses, Ch. 12; gas tax improvement fund, § 22-58 et seq.

Sec. 23-17. Contract with state.

Prior to the operative date, this city shall contract with the state board of equalization to perform all functions incident to the administration and operation of this sales and use tax regulation; provided, that if this city shall not have contracted with the state board of equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract rather than the first day of the first calendar quarter following the adoption of this article. (Code 1961, § 25.2.4; Ord. No. 515, § 1, 10-9-73; Ord. No. 518, § 1, 11-12-73)

Sec. 23-18. Sales tax imposed.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the city at the rate stated in section 23-16 of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in this city on and after the operative date. (Ord. No. 515, § 1, 10-9-73)

Sec. 23-19. Place of sale.

For the purposes of this article, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the state board of equalization. (Code 1961, § 25.3.1; Ord. No. 515, § 1, 10-9-73)

Sec. 23-20. Use tax imposed.

An excise tax is hereby imposed on the storage, use or other consumption in this city of tangible personal property purchased from any retailer on and after the operative date

for storage, use or other consumption in this city at the rate stated in section 23-16 of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made. (Code 1961, § 25.3.2; Ord. No. 515, § 1, 10-9-73)

Sec. 23-21. Adoption of state law.

Except as otherwise provided in this article and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this article as though fully set forth herein. (Code 1961, § 25.3.3; Ord. No. 515, § 1, 10-9-73)

Sec. 23-22. Words substituted in state law.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, wherever the State of California is named or referred to as the taxing agency, the name of this city shall be substituted therefor. The substitution, however, shall not be made when the word "state" is used as part of the title of the state controller, the state treasurer, the state board of control, the state board of equalization, the state treasury, or the Constitution of the State of California; the substitution shall not be made when the result of that substitution would require action to be taken by or against the city, or any agency thereof rather than by or against the state board of equalization, in performing the functions incident to the administration or operation of this article; the substitution shall not be made in these sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the state under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or to impose this tax with respect to

certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provisions of that code; the substitution shall not be made in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code; and the substitution shall not be made for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 or in the definition of that phrase in Section 6203. (Code 1961, § 25.3.4; Ord. No. 515, § 1, 10-9-73)

Sec. 23-23. Subsequent amendments to state law adopted.

All subsequent amendments of the Revenues and Taxation Code which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this article. (Ord. No. 515, § 1, 10-9-73)

State law reference—Comparable provision required, Rev. & T. Code, § 7202(h)(3).

Sec. 23-24. When seller's permit not required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional seller's permit shall not be required by this article. (Code 1961, § 23.3.5; Ord. No. 515, § 1, 10-9-73)

Sec. 23-25. Exclusions from measure of tax.

There shall be excluded from the measure of tax:

- (a) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.
- (b) The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state.
- (c) The gross receipts from sales to, and the storage, use or other consumption

of property purchased by, operators of common carriers and waterborne vessels to be used or consumed in the operation of such common carriers or waterborne vessels principally outside this city.

- (d) The storage or use of tangible personal property in the transportation or transmission of persons, property or communications, or in the generation, transmission or distribution of electricity or in the manufacture, transmission or distribution of gas in intrastate, interstate or foreign commerce by public utilities which are regulated by the Public Utilities Commission of the State of California. (Code 1961, § 25.4; Ord. No. 515, § 1, 10-9-73)

Sec. 23-26. Exclusions and exemptions.

The following provisions shall be operative January 1, 1984:

(a) The amount subject to tax shall not include any sales or use tax imposed by the State of California upon a retailer or consumer.

(b) The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with part 1.5 of division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state shall be exempt from the tax due under this article.

(c) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(d) In addition to the exemptions provided in sections 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued

pursuant to the laws of this state, the United States or any foreign government is exempted from the use tax. (Ord. No. 714, § 1, 12-13-83)

The following provisions shall be operative on the operative date of any act of the Legislature of the State of California which amends section 7202 of the Revenue and Taxation Code or which repeals and reenacts section 7202 of the Revenue and Taxation Code to provide an exemption from city sales and use taxes for operators of waterborne vessels in the same, or substantially the same, language as that existing in subdivisions (i)(7) and (i)(8) of section 7202 as those subdivisions read on October 1, 1983.

(a) The amount subject to tax shall not include any sales or use tax imposed by the State of California upon a retailer or consumer.

(b) The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to tax under a sales and use tax ordinance enacted in accordance with part 1.5 of division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state shall be exempt from the tax due under this article.

(c) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

(d) The storage, use or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property of such vessels for commercial purposes is exempted from the use tax.

(e) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States or any foreign government.

(f) In addition to the exemptions provided in sections 6366 and 6366.1 of the Revenue and Taxa-

tion Code, the storage, use or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempted from the use tax. (Ord. No. 714, § 2, 12-13-83)

Sec. 23-27. Application of provisions relating to exclusions and exemptions.

(a) Section 23-26 of this article shall become operative on January first of the year following the year in which the state board of equalization adopts an assessment ratio for state-assessed property which is identical to the ratio which is required for local assessments by Section 401 of the Revenue and Taxation Code, at which time section 23-25 of this article shall become inoperative.

(b) In the event that section 23-26 of this article becomes operative and the state board of equalization subsequently adopts an assessment ratio for the state-assessed property which is higher than the ratio which is required for local assessments by Section 401 of the Revenue and Taxation Code, section 23-25 of this article shall become operative on the first day of the month next following the month in which such higher ratio is adopted, at which time section 23-25 of this article shall be inoperative until the first day of the month following the month in which the board again adopts an assessment ratio for state-assessed property which is identical to the ratio required for local assessments by Section 401 of the Revenue and Taxation Code, at which time section 23-26 shall again become operative and section 23-25 shall become inoperative. (Code 1961, § 25.4.2; Ord. No. 515, § 1, 10-9-73)

Sec. 23-28. Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the state or this city, or against any officer of the state or this city, to prevent or enjoin the collection under this article, or

Part 1.5 of the Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected. (Code 1961, § 25.6; Ord. No. 515, § 1, 10-9-73)

Sec. 23-29. Penalties.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for a period of not more than six (6) months, or by both such fine and imprisonment. (Code 1961, § 25.7; Ord. No. 515, § 1, 10-9-73)

Sec. 23-30. Continuation of prior sales tax provisions.

Article II of Chapter 25 of the 1961 Code of the city as presently written shall remain applicable for the purposes of administration of said article and the imposition of, and the

collection of tax with respect to the sales of, and the storage, use, or other consumption of tangible personal property prior to January 1, 1974, the making of refunds, effecting credits, the disposition of monies collected, and for the commencement or continuance of any action or proceeding under said article. (Ord. No. 515, § 4, 10-9-73)

Secs. 23-31—23-41. Reserved.

ARTICLE III. REAL PROPERTY TRANSFER TAX

Sec. 23-42. Short title; authority.

This article shall be known as the "Real Property Transfer Tax Ordinance of the City of Belmont." It is adopted pursuant to the authority contained in Part 6.7 (commencing with section 11901) of Division 2 of the Revenue and Taxation Code of the State of California. (Code 1961, § 25.24)